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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/871,381 | 05/30/2001 | Mazen Chmaytelli | 010043 | 9855 |

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Qualcomm Incorporated
Patents Department
5775 Morehouse Drive
San Diego, CA 92121-1714

EXAMINER

QURESHI, SHABANA

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2155

DATE MAILED: 08/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

14

Office Action Summary

Application No.

09/871,381

Applicant(s)

CHMAYTELLI ET AL.

Examiner

Shabana Qureshi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barrett et al. (US Patent No. 5,908,467).

Regarding claims 1, 11, 18, 19, 20, 24, 27, 28, 38, 44, and 45, Barrett et al teach a method for estimating a length of time required to download one or more application programs onto a device over a wireless network, the method comprising operations of:

- the device exchanging one or more data files with a server (column 5, lines 4-16), the data files including at least information representing a size of the one or more application programs available for downloading onto the wireless device (column 5, lines 57-66), during the exchanging, at least one of the server and wireless device measuring one or more data transfer rates for the exchanging operation (column 5, line 57 – column 6, line 2);
- receiving user input of one or more application programs to download (column 5, lines 4-10);
- at least one of the server and device:
- utilizing the one or more measured data transfer rates and the size of the selected one or more application programs to estimate a length of time required to

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download the one or more application programs onto the device (column 5, line 57 – column 6, line 3); and

- the device providing an output of the estimated time (column 6, lines 1-2).

In column 8, lines 35-37, Barrett et al teach that the transmission medium is a communication link. Barrett et al does not explicitly state that the user's device is wireless. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to extend the download time notification functionality taught by Barrett to wireless users, resulting in a more versatile application usable by a more vast audience of users such as those using pervasive devices, cellular phones, etc.

As per claims 2, 12, 21, 25, and 29, Barrett et al teach the method of claims 1, 11, 20, 24, and 28, the exchanging operation comprising:

- the device sending one or more requests to the server to obtain the data files from the server (column 5, lines 4-15).

As per claims 3 and 37, Barrett et al teach the method of claim 1 and 28, the exchanging operation comprising:

- the data files containing information describing the one or more application programs available for download onto the device (column 8, lines 2-5).

As per claim 4, Barrett et al teach the method of claim 1, the exchanging operation comprising:

- the server transmitting the application programs for download onto the device in response to operation of the device to purchase the one or more application programs (column 8, lines 2-5).

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Barrett does not specify that the applications are purchased. However, purchasing of an application is a field of use of applications, which were well known at the time the invention was made. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the purchase of applications to the client.

As per claims 5, 13, 32, 33, 41, and 42, Barrett et al teach the method of claims 1, 11, 28, and 38 the measuring operation comprising operations of:

- each of the one or more data files sent to the device from the server programmed to contain information representing a size of the data file (column 7, lines 60-65);
- the device measuring a length of time required to download each data file onto the device (column 5, lines 57-63); and

In column 5, lines 64-65, Barrett teaches that the size influences the estimation of the length of download time. Barrett does not explicitly state that the server divides the size by the length of time. However, It would have been obvious to one of ordinary skill in the art at the time the invention was made to manipulate the calculation to estimate the download time based on the suggestion to estimate the download time in order to achieve a more accurate calculation. Patent number 6,741,565 further teaches other such methods and manipulations to estimate download time.

As per claims 6 and 23, Barrett et al teach the method of claims 1 and 20, the measuring operation comprising operations of:

- the wireless device notifying the server immediately upon completion of the downloading of each of the one or more data files (column 5, lines 38-67); and

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- in response, the server dividing a size of each of the one or more data files by a length of time between the server sending each data file to the wireless device, and the wireless device notifying the server of the completed download (column 5, lines 38-67, column 7, lines 7-14).

In column 5, lines 64-65, Barrett teaches that the size influences the estimation of the length of download time. Barrett does not explicitly state that the server divides the size by the length of time. However, It would have been obvious to one of ordinary skill in the art at the time the invention was made to manipulate the calculation to estimate the download time based on the suggestion to estimate the download time in order to achieve a more accurate calculation. Patent number 6,741,565 further teaches other such methods and manipulations to estimate download time.

As per claims 7-10 and 14-17, Barrett teaches that the size influences the estimation of the length of download time. Barrett does not explicitly teach the averaging, weighting, or moving methods. However, It would have been obvious to one of ordinary skill in the art at the time the invention was made to manipulate the calculation to estimate the download time based on the suggestion to estimate the download time in order to achieve a more accurate calculation. Averaging, weighting, and moving are known algorithms used in implementing estimation of communication data. Patent number 6,741,565 further teaches other such methods and manipulations to estimate download time.

As per claims 22 and 26, Barrett et al teach the system of claims 20 and 24, the exchanging operation comprising operations of:

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- the server initiating a transmission of the data files to the device (column 6, lines 39-57).

As per claim 30, Barrett et al teach the method of claim 28, further comprising the step of displaying a download gauge on the wireless device indicating the length of time to download the download file (column 3, lines 48-54).

As per claim 31, Barrett et al teach the method of claim 28, wherein the download gauge is updated to indicate a progress of downloading the download file (column 3, lines 48-54).

As per claim 34, Barrett et al teach the method of claim 28, further comprising the steps of:

- receiving one or more second data files, each containing an associated size field, wherein each associated size field indicates the size of the data file to which it is associated (column 5, lines 38-67);
- measuring a length of time required to receive each of the one or more data files (column 5, lines 38-67); and
- calculating a second transfer rate using the data transfer rate and the size of each of the received one or more second data files and the length of time required to receive each of the one or more second data files (column 5, lines 38-67).

As per claims 35-36, Barrett et al teach the method of claim 34. Barrett teaches that the size influences the estimation of the length of download time (column 5, lines 64-65). Barrett does not explicitly teach the averaging, weighting, or moving methods. However, It would have been obvious to one of ordinary skill in the art at the time the invention was made to manipulate the calculation to estimate the download time based on

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the suggestion to estimate the download time in order to achieve a more accurate calculation. Averaging, weighting, and moving are known algorithms used in implementing estimation of communication data. Patent number 6,741,565 further teaches other such methods and manipulations to estimate download time.

As per claim 39, Barrett et al teach the method of claim 38, further comprising of:

- displaying a download gauge on the device indicating the length of time to download the download file (column 3, lines 48-54); and
- updating the download gauge on the display to indicate a progress of downloading the download file (column 3, lines 48-54).

As per claims 42-43, Barrett et al teach the method of claim 38. Barrett teaches that the size influences the estimation of the length of download time (column 5, lines 64-65). Barrett does not explicitly teach the averaging, weighting, or moving methods. However, It would have been obvious to one of ordinary skill in the art at the time the invention was made to manipulate the calculation to estimate the download time based on the suggestion to estimate the download time in order to achieve a more accurate calculation. Averaging, weighting, and moving are known algorithms used in implementing estimation of communication data. Patent number 6,741,565 further teaches other such methods and manipulations to estimate download time.

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Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shabana Qureshi whose telephone number is (703) 308-6118. The examiner can normally be reached on Monday - Friday, 8:30am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain T. Alam can be reached on (703) 308-6662. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Shabana Qureshi
Examiner
Art Unit 2155

SQ
20 June, 2004


HOSAIN ALAM
SUPERVISORY PATENT EXAMINER